

REMARKS

Claims 1-64 are pending.

Claims 43-64 have been withdrawn.

Claim 1 has been amended for clarity to correct a minor informality.

Claim Rejections - 35 U.S.C. § 103

Claims 1-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,782,369 issued to Carrott (referred to herein as “*Carrott*”). Applicants respectfully traverse the rejection.

Carrott relates to a “system and method of allocating commissions for sales made over the Internet and for dividing an otherwise indivisible Internet into defined geographic areas.” *Carrott*, Abstract. Applicants respectfully submit that *Carrott* fails to teach or suggest:

- **Claim 1.** “A system for managing relationships between a first party and a second party” that includes:
 - a “plurality of modules comprising a licensing module configured to determine if a party associated with said sales transaction has a valid license.”
- **Claim 12.** “A system for managing relationships between a first party and a second party” that includes:
 - “a database source comprising a plurality of data objects representative of ... at least one license or appointment associated with said at least one distributing party” and
 - a distributor management engine configured to ... determine whether said at least one distributing party conforms with said at least one selling agreement and said at least one license or appointment is valid.

- **Claim 32.** “A system for managing relationships between a first party and a second party” that includes:
 - a “plurality of modules comprising, a licensing and appointment module configured to determine if said at least one license or appointment data object associated with said at least one distributor is in compliance with a set of industry regulations.”

To establish obviousness based on a combination of elements disclosed in the prior art or a modification of the prior art, there must be some motivation, suggestion or teaching of the desirability of making the claimed invention. *See In re Dance*, 160 F.3d 1339, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998); *In re Gordon*, 733 F.2d 900, 221 USPQ 1125, 1127 (Fed. Cir. 1984). The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases, the nature of the problem to be solved. *In re Dembiczak*, 175 F.3d 994, 998, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Broad conclusory statements standing alone are not “evidence” of obviousness. *Id.* Additionally, hindsight is an impermissible basis for establishing a prima facie case of obviousness. W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540, 1551, 220 USPQ 303, 312-13 (Fed. Cir. 1983). To prevent a hindsight-based obviousness analysis, the Federal Circuit has clearly established that the relevant inquiry for determining the scope and content of the prior art is whether there is a reason, suggestion, or motivation in the prior art or elsewhere that would have led one of ordinary skill in the art to select and modify *Carrott* in accordance with the Examiner’s Official Notice so as to render the present invention obvious under 35 U.S.C. § 103.

The *Ruiz v. A.B. Chance Co.*, the Federal Circuit specifically stated that:

In making the assessment of differences, section 103 specifically requires consideration of the claimed invention "as a whole." The "as a whole" instruction in title 35 prevents evaluation of the invention part by part. Without this important requirement, an obviousness assessment might break an invention into its component parts (A + B + C), then find a prior art reference containing A, another containing B, and another containing C, and on that basis alone declare the invention obvious. This form of hindsight reasoning, using the invention as a roadmap to find its prior art components, would discount the value of combining various existing features or principles in a new way to achieve a new result - often the very definition of invention. Section 103 precludes this hindsight discounting of the value of new

combinations by requiring assessment of the invention as a whole. This court has provided further assurance of an "as a whole" assessment of the invention under § 103 by requiring a showing that an artisan of ordinary skill in the art at the time of invention, confronted by the same problems as the inventor and with no knowledge of the claimed invention, would select the various elements from the prior art and combine them in the claimed manner. In other words, the examiner or court must show some suggestion or motivation, before the invention itself, to make the new combination. 357 F.3d 1270, 69 USPQ2d (BNA) 1686 (Fed. Cir. Jan. 29, 2004).

Applicants respectfully submit that a *prima facie* case of obviousness has not been made because the present application, and thus hindsight, is being used to develop the *prima facie* case.

The Examiner admits that "*Carrott* does not disclose the term selling agreement associated with a valid license." Office Action, para 2. The Examiner continues:

However, *Carrott* does disclose a commission received for each sale completed. Official Notice is taken that selling agreements associated with a sales agent having a valid license has been common knowledge in the sales transaction art. To have provided such for Carrot would have been obvious to one of ordinary skill in the art. The motivation for having provides such would have been to incorporate common knowledge association means to track sales personal and their productivity. *Id.*

Applicants respectfully submit that although it was well-known that sales agents are supposed to have licenses to conduct certain types of sales transactions, a system for managing relationships between a first party and a second party that includes the above cited elements of Claims 1, 12, and 32 is not obvious. The Background section of the present application states that "any plan for distribution channel management must consider the number of channels, the number of distributors, compensation complexity, regulatory and licensing requirements and the number and types of products that will be sold." Present Application, Background, p. 3, lines 10-13. Thus, the present application recognizes that licensing requirements are known. The Background section of the present application also asserts that "**The distribution channel model within the financial services industry is very complex.**" *Id.*, lines 1-2. Furthermore, "Credential management is a critical issue for many firms." *Id.*, p. 8, line 1. "This need [to track accreditation] is made more acute by constantly changing governmental rules and regulations, as well as by different regulations imposed by the different jurisdictions in which a firm operates." *Id.*, lines 8-11.

Although the necessity of licensed individuals in certain sales transaction contexts was well-known, Applicants respectfully submit, and have documented in the Present Application, that such recognition does not teach or suggest an enabling solution to a very complex problem. As stated by the Present Application, “In conclusion, there is a need for a solution ... where there is multiple channel selling, a fluid workforce, and regulatory constraints.” *Id.*, p. 10, lines 12-16. Thus, the prior existence of the alleged motivation “to incorporate common knowledge association means to track sales personal and their productivity” is directly controverted by the Background section.

Thus, Applicants respectfully submit that the teachings of *Carrott* and the well-known need for licensed individuals in certain contexts, does not teach or suggest:

- **Claim 1.** “A system for managing relationships between a first party and a second party” that includes:
 - a “plurality of modules comprising a licensing module configured to determine if a party associated with said sales transaction has a valid license.”
- **Claim 12.** “A system for managing relationships between a first party and a second party” that includes:
 - “a database source comprising a plurality of data objects representative of ... at least one license or appointment associated with said at least one distributing party” and
 - a distributor management engine configured to ... determine whether said at least one distributing party conforms with said at least one selling agreement and said at least one license or appointment is valid.

- **Claim 32.** “A system for managing relationships between a first party and a second party” that includes:
 - a “plurality of modules comprising, a licensing and appointment module configured to determine if said at least one license or appointment data object associated with said at least one distributor is in compliance with a set of industry regulations.”

Note, the invention is defined by the claims and not by the Background, Summary, Figures, or Description contained in the Present Application.

Accordingly, Applicants respectfully request withdrawal of the rejection of independent Claims 1, 12, and 32 and, for at least the same reasons, withdrawal of claims directly or indirectly dependent upon Claims 1, 12, or 32.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 3, 2006.



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3-3-2006

Date of Signature

Respectfully submitted,



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